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STANLEY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

JASON ZAJONC and DENNIS FOWLER,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

MORGAN STANLEY & CO. LLC, f/k/a
Morgan Stanley & Co. Incorporated,
MORGAN STANLEY SMITH BARNEY
LLC, and MORGAN STANLEY,

Defendants.

Case No. 4:14-cv-05563-EMC

**SUPPLEMENTAL DECLARATION OF
KEITH WAGGONER IN SUPPORT OF
DEFENDANTS MORGAN STANLEY &
CO. LLC, MORGAN STANLEY SMITH
BARNEY LLC, AND MORGAN
STANLEY'S PORTION OF
SEPTEMBER 2, 2015 JOINT
DISCOVERY LETTER**

Complaint Filed: December 19, 2014
FAC Filed: August 7, 2015

1 I, Keith Waggoner, declare as follows:

2 1. I am employed by Morgan Stanley & Co. LLC ("Morgan Stanley") as a Vice
3 President in the Firm's IT security group, and I work at Morgan Stanley's office located at 1 New
4 York Plaza in New York. As a result of my own knowledge, experience and conversations with
5 others at Morgan Stanley, I could and would competently testify to the truth of the following facts
6 if called as a witness.

7 2. **Computer Log In/Out Data.** Computer log in/out data is stored on individual
8 firm-issued personal computers used by Morgan Stanley employees. Morgan Stanley does not
9 affirmatively maintain data relating to whether employees regularly log in and out of their
10 computers at the start and end of their workday. For a variety of reasons, a computer may not
11 accurately reflect the time a computer was in use by a particular employee. For example, some
12 employees log on at the beginning of the work week and do not log off until the end of the work
13 week. In addition, log in/log out data reflects system activity as well as individual user activity.

14 3. Computers may be identified and located for current employees by conducting
15 individual searches in a centralized system. Once the computer is identified, it may be possible to
16 obtain log in/out information remotely from certain computers. Morgan Stanley IT personnel
17 then would need to collect the computer log in/out data and deliver it to one of Morgan Stanley's
18 external ESI vendors for processing, which would incur additional costs. Thus, for each
19 employee, Morgan Stanley IT personnel would be required to search, identify, collect and deliver
20 the computer log in/out data for each employee in scope. For each employee, it takes at least two
21 hours to search, identify, process and deliver the computer log in/out data to the ESI vendor if the
22 computers can be searched remotely.

23 4. In some cases, in particular for computers belonging to former employees, it may
24 not be possible to obtain the information remotely from the computer. In that case, if available,
25 the computer would need to be shipped to a computer laboratory in New York for forensic
26 imaging, collection and delivery to the external ESI vendor for processing.

27 5. Because computers may be used by more than one employee, Morgan Stanley also
28 may be unable to confirm that log in/out data can be linked to a particular employee.

1 6. **Telephone Records.** Morgan Stanley has some call detail records reflecting
2 telephone calls. These records are maintained for operational purposes and may not reflect all
3 telephone calls to a particular telephone line.

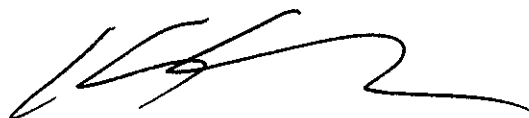
4 7. To obtain these records, Morgan Stanley IT personnel must be provided with the
5 telephone line assigned to a particular employee. It is possible that an employee could be
6 assigned more than one phone number during the applicable time period.

7 8. Once a dedicated telephone line is identified, a search must be conducted in a
8 centralized system to identify and gather the telephone records for each line. It takes
9 approximately one hour to perform a telephone record investigation for each individual.

10 9. Telephone records may not indicate whether a call was answered by an employee
11 or the automated voicemail system, and do not indicate whether a telephone line was being used
12 by another employee.

13 I declare under penalty of perjury under the laws of the United States of America that the
14 foregoing is true and correct.

15 Executed this 22nd day of September, 2015 in New York, New York.

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Keith Waggoner

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